



Reprinted
February 28, 2001

HOUSE BILL No. 1721

DIGEST OF HB 1721 (Updated February 27, 2001 10:46 AM - DI 98)

Citations Affected: IC 5-2; IC 25-1; IC 25-21.8; noncode.

Synopsis: Licensing of massage therapists. Establishes a five person state board of massage therapy. Provides for the licensing of massage therapists by the board. Specifies requirements that applicants must meet in order to be licensed as massage therapists. Establishes guidelines for the licensing by endorsement of a massage therapist who holds a license in another state. Provides that a knowing violation of the massage therapist licensing law is a class B misdemeanor.

Effective: July 1, 2000; July 1, 2001.

Moses, Wolkins, Weinzapfel

January 17, 2001, read first time and referred to Committee on Human Affairs.
February 20, 2001, amended, reported — Do Pass.
February 27, 2001, read second time, amended, ordered engrossed.

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HB 1721—LS 8035/DI 104+



Reprinted
February 28, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1721

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-5-14, AS ADDED BY P.L.56-2000, SECTION
2 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2000]: Sec. 14. Pursuant to Public Law 92-544 (86 Stat. 1115), a local
4 law enforcement agency may use fingerprints submitted for the purpose
5 of identification in a request related to:
6 (1) a taxicab driver's license application; **or**
7 (2) ~~an application for license for massage therapist; or~~
8 (3) ~~(2)~~ reinstatement or renewal of the same license.
9 An applicant shall submit the fingerprints on forms provided for the
10 license application. The local law enforcement agency shall charge
11 each applicant the fees set by the state police department and federal
12 authorities to defray the costs associated with a search for and
13 classification of the applicant's fingerprints. The local law enforcement
14 agency may forward for processing to the Federal Bureau of
15 Investigation or any other agency fingerprints submitted by a license
16 applicant. The local law enforcement agency may receive the results of
17 all fingerprint investigations.

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SECTION 2. IC 25-1-2-6, AS AMENDED BY P.L.82-2000,
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2001]: Sec. 6. (a) As used in this section, "license" includes
all occupational and professional licenses, registrations, permits, and
certificates issued under the Indiana Code, and "licensee" includes all
occupational and professional licensees, registrants, permittees, and
certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate
occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.
- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects and landscape architects.
- (5) State board of barber examiners.
- (6) State board of cosmetology examiners.
- (7) Medical licensing board of Indiana.
- (8) Secretary of state.
- (9) State board of dentistry.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.
- (16) Indiana board of pharmacy.
- (17) Indiana plumbing commission.
- (18) Board of podiatric medicine.
- (19) Private detectives licensing board.
- (20) State board of registration for professional engineers.
- (21) Board of environmental health specialists.
- (22) State psychology board.
- (23) Indiana real estate commission.
- (24) Speech-language pathology and audiology board.
- (25) Department of natural resources.
- (26) State boxing commission.
- (27) Board of chiropractic examiners.
- (28) Mining board.
- (29) Indiana board of veterinary medical examiners.
- (30) State department of health.
- (31) Indiana physical therapy committee.
- (32) Respiratory care committee.
- (33) Occupational therapy committee.



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(34) Social worker, marriage and family therapist, and mental health counselor board.

(35) Real estate appraiser licensure and certification board.

(36) State board of registration for land surveyors.

(37) Physician assistant committee.

(38) Indiana dietitians certification board.

(39) Indiana hypnotist committee.

(40) **Indiana state board of massage therapy.**

(41) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 3. IC 25-1-9-1, AS AMENDED BY P.L.24-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

(9) Board of environmental health specialists (IC 25-32).

(10) Speech-language pathology and audiology board (IC 25-35.6-2).

(11) State psychology board (IC 25-33).

(12) Indiana board of veterinary medical examiners (IC 15-5-1.1).

(13) Indiana physical therapy committee (IC 25-27-1).

(14) Respiratory care committee (IC 25-34.5).

(15) Occupational therapy committee (IC 25-23.5).

(16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).



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(17) Physician assistant committee (IC 25-27.5).

(18) Indiana athletic trainers board (IC 25-5.1-2-1).

(19) Indiana dietitians certification board (IC 25-14.5-2-1).

(20) Indiana hypnotist committee (IC 25-20.5-1-7).

(21) Indiana state board of massage therapy (IC 25-21.8-2-1).

SECTION 4. IC 25-21.8 IS ADDED TO THE INDIANA CODE AS
A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
2001]:

ARTICLE 21.8. MASSAGE THERAPISTS

Chapter 1. Definitions

Sec. 1. Definitions in this chapter apply throughout this article.

Sec. 2. "Board" means the Indiana state board of massage therapy established by IC 25-21.8-2-1.

Sec. 3. "Bureau" means the health professions bureau established by IC 25-1-5-3.

Sec. 4. (a) "Massage" or "massage therapy" means the treatment of the human body by the therapeutic application of massage techniques, including:

(1) the use of touch, pressure, movement, positioning, and holding with or without the use of massage devices that mimic or enhance manual measures; and

(2) the external application of heat, cold, water, lubricants, and abrasives.

(b) The term does not include joint manipulation or spinal adjustment.

Sec. 5. "Massage therapist" means an individual who practices massage or massage therapy.

Sec. 6. "NCCA" means the National Commission of Certifying Agencies.

Sec. 7. "Practice of massage" or "practice of massage therapy" means the performance of massage or massage therapy or holding oneself out or implying in any manner to the public that an individual performs massage or massage therapy.

Chapter 2. Indiana State Board of Massage Therapy

Sec. 1. The Indiana state board of massage therapy is established.

Sec. 2. (a) The board consists of five (5) members who must be citizens of the United States and residents of Indiana. The governor shall appoint the members of the board.

(b) The board consists of the following:

(1) Three (3) massage therapists who:

(A) are licensed under this article; and



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(B) have been actively practicing massage therapy for at least three (3) of the five (5) years preceding the individual's appointment to the board.

The board members appointed under this subdivision may continue to practice massage or massage therapy while serving on the board.

(2) Two (2) members of the general public who may not:

(A) be licensed under this article;

(B) be the spouse of an individual licensed under this article; or

(C) have a direct or indirect financial interest in the profession regulated under this article.

Only one (1) of the two (2) members appointed under this subdivision may hold a license in another health care profession.

Sec. 3. The term of a board member is three (3) years.

Sec. 4. (a) Each member of the board shall hold office until a successor has been appointed.

(b) Any vacancy on the board other than by expiration of term shall be filled by the governor for the unexpired portion of the term of the member succeeded in the same manner as an original appointment.

(c) A member may not serve more than two (2) consecutive terms in addition to any unexpired term to which the individual was appointed.

(d) The governor may remove a member of the board for just cause.

Sec. 5. The board shall elect from its members annually the following officers:

(1) A chairperson.

(2) A vice chairperson.

(3) A secretary.

Sec. 6. The board shall meet as often as necessary to conduct business, but at least two (2) times a year.

Sec. 7. (a) Three (3) members of the board constitute a quorum for the purpose of transacting business.

(b) The affirmative vote of at least three (3) members is necessary for the board to take official action.

Sec. 8. Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b) for each day the member is actually engaged in the business of the board. The member is also entitled to

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reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Chapter 3. Powers and Duties of the Board

Sec. 1. The board has the following powers and duties:

- (1) To administer, coordinate, and enforce this article.
- (2) To adopt rules under IC 4-22-2 necessary to carry out this article.
- (3) To evaluate the qualifications of applicants for licensing under this article.
- (4) To issue, deny, renew, suspend, or revoke licenses under this article.
- (5) To rescind or modify any disciplinary action taken under IC 25-21.8-7.
- (6) To discipline licensees for violations of this article.
- (7) To conduct investigations to determine whether violations of this article exist and constitute grounds for disciplinary action against licensees under this article.
- (8) To conduct administrative hearings.
- (9) To establish reasonable fees for examination fees, license applications, renewal of licenses, and other services.
- (10) To maintain a record of all proceedings.
- (11) To prepare and make available to the public an annual report.
- (12) To establish a system for grievances to be addressed and resolved.
- (13) To maintain a list of licensed massage therapists and make the list available to other licensed massage therapists upon request.

Sec. 2. The bureau shall do the following:

- (1) Carry out the administrative functions of the board.
- (2) Provide necessary personnel to carry out the duties of this article.
- (3) Receive and account for all fees required under this article.
- (4) Deposit fees collected with the treasurer of state for deposit in the state general fund.

Chapter 4. Issuance of License

Sec. 1. An individual who practices or offers to practice massage therapy must be licensed by the board.



Sec. 2. This article does not apply to the following:

(1) A health care professional who, while not professing to be a massage therapist, is acting within the scope of the health care professional's license, certification, or registration.

(2) An individual giving a massage to a member of the individual's immediate family.

(3) A massage therapy student performing massages or massage therapy in the course of the student's studies and who:

(A) does not claim or state that the student is a massage therapist or use any of the other terms in section 5(3) of this chapter; and

(B) does not receive or expect compensation of any kind from the public for the massages.

(4) An individual who, while not holding the individual out as a massage therapist, uses touch and words to deepen awareness of existing patterns of movement in the human body or who suggests new possibilities of movement, including the following:

(A) Feldenkrais Method.

(B) Alexander Technique.

(C) Trager Psychophysical Integration.

(D) Any other technique determined by the board to qualify under this subdivision.

(5) Individuals or businesses administering massage or health treatment involving massage to individuals participating in sporting activities, educational events, conferences, disaster relief, emergency events, or health fair events, if all the following conditions are met:

(A) The massage services are made available equally to all participants in the event.

(B) The event is open to participation by the general public or by a significant segment of the public, such as employees of sponsoring or participating corporations.

(C) The massage services are provided at the site of the event in a public setting, either during or immediately following the event.

(D) The sponsors of the event have been advised and have approved the provision of the massage services, and the massage therapists performing the services for the single event meet the license qualifications of this article.

(6) An individual who treats soft tissue above the neck, below

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the elbow, or below the knee and does not disrobe the client,
if the individual does not profess to be a massage therapist.

Sec. 3. An application for a massage therapist license must be made to the board on forms provided by the board, and must be accompanied by an application fee in the amount set under IC 25-21.8-3-1(13).

Sec. 4. The board may issue a license as a massage therapist to an applicant if the applicant satisfies all of the following conditions:

- (1) Has a high school diploma or the equivalent.**
- (2) Is at least eighteen (18) years of age.**
- (3) Has successfully completed a school or program that requires at least five hundred (500) hours of study, if the school is in good standing with any state, regional, or national agency of government charged with regulating massage therapy schools or programs.**
- (4) Has taken and passed at least one (1) of the following:**
 - (A) The National Certification Exam for Therapeutic Massage and Bodywork (NCETMB), if the exam is recognized by the NCCA.**
 - (B) An equivalent massage examination accredited by the NCCA.**
 - (C) An examination created or approved by the board.**

Sec. 5. An individual who is not licensed under this article shall not:

- (1) profess to be a massage therapist;**
- (2) practice massage or massage therapy; or**
- (3) use:**
 - (A) the title "Licensed Massage Therapist", "Massage Therapist", "Licensed Massage Practitioner", or "Massage Practitioner";**
 - (B) the abbreviations "LMT", "MT", "LMP", "MP"; or**
 - (C) any other words, initials, letters, abbreviations, or insignia indicating or implying that the individual is a massage therapist licensed under this article.**

Sec. 6. A license issued by the board is valid for four (4) years.

Chapter 5. Licensure by Endorsement

Sec. 1. (a) Subject to section 2 of this chapter, the board may grant a license to any individual who is licensed, certified, or registered in another state or country having credentialing standards that are at least as strict as those under this article and who is in good standing.

(b) Upon receipt of an application for a license by endorsement



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under this chapter, the board shall contact each jurisdiction that previously has credentialed the applicant to determine the applicant's current status in each jurisdiction.

Sec. 2. An applicant under this chapter shall be issued a license if:

(1) the applicant has been credentialed by another state within the five (5) years immediately preceding the submission of the application to the board under this chapter, and the state has standards for massage therapists that are substantially equivalent to this article; or

(2) the applicant holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork or another agency that meets standards set by the NCCA;

and the applicant meets other requirements established by the board.

Chapter 6. License Renewal

Sec. 1. A license may be renewed by an individual by filing a renewal application with the board and paying a renewal fee set by the board under IC 25-21.8-3-1(13).

Sec. 2. (a) A renewal application must be submitted to the board at least fifteen (15) days before expiration of the license.

(b) If a renewal application is not submitted within the time set forth in subsection (a), the board may charge the applicant a delinquent fee in the amount set under IC 25-21.8-3-1(13).

Chapter 7. Discipline and Violations

Sec. 1. A person who knowingly violates or causes a violation of this article commits a Class B misdemeanor. This section does not apply to the violation of a rule adopted by the board.

Sec. 2. The board shall adopt rules under IC 4-22-2 regarding the discipline of a licensee for violations of this article.

Sec. 3. Notwithstanding section 2 of this chapter, the board shall follow the disciplinary procedures established under IC 25-1-7 and IC 25-1-9-4 through IC 25-1-9-9.

Sec. 4. An individual licensed under this article is subject to the exercise of disciplinary sanctions if, after a hearing, the board finds that the individual:

(1) employed or knowingly cooperated in fraud or material deception in order to obtain a license under this article;

(2) has engaged in fraud or material deception in the course of professional services or activities or has advertised services in a false or misleading manner;



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(3) knowingly violated a rule adopted by the board under this article; or

(4) allowed the individual's name or the license issued to the individual under this article to be used in connection with an individual who practices massage therapy beyond the scope of the individual's training, experience, or competence.

Sec. 5. The board may impose any one (1) or more of the following sanctions when the board finds that a licensee has violated this article:

(1) Revoke the licensee's license.

(2) Suspend the licensee's license.

(3) Issue a letter of reprimand to the licensee.

Chapter 8. Preemption of Local Ordinances and Regulations

Sec. 1. Except as provided in section 2 of this chapter, this article supercedes an ordinance or regulation adopted by a municipality or county of Indiana relating to the licensing or registration of massage therapists.

Sec. 2. This article does not effect local regulations relating to:

(1) zoning requirements; or

(2) occupational license fees;

adopted by a municipality or county pertaining to massage therapists.

SECTION 5. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding IC 25-21.8-2-3, as added by this act, the members of the board first appointed by the governor shall serve for the following terms:

(1) The three (3) members appointed under IC 25-21.8-2-2(b)(1), as added by this act, serve for three (3) years.

(2) The two (2) members appointed under IC 25-21.8-2-2(b)(2), as added by this act, serve for two (2) years.

(b) This SECTION expires July 1, 2005.

SECTION 6. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding IC 25-21.8-4-4 and IC 25-21.8-5-2, both as added by this act, the Indiana state board of massage therapy may issue a license to any applicant who practiced massage or massage therapy in Indiana before July 1, 2001, regardless of whether the applicant meets the licensing requirements set forth in IC 25-21.8, as added by this act.

(b) Any applicant who began practicing massage or massage therapy in Indiana on or after July 1, 2001, must meet the licensing requirements set forth in IC 25-21.8, as added by this act, to be licensed in Indiana.



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1 (c) Notwithstanding IC 25-21.8-4-4 and IC 25-21.8-5-2, both as
2 added by this act, the Indiana state board of massage therapy may
3 issue a license to any applicant who:

4 (1) before March 1, 2001, enrolled in a massage therapy
5 school or program that required five hundred (500) hours of
6 study if the school was in good standing with any state,
7 regional, or national agency of government charged with
8 regulating massage therapy or programs; and

9 (2) before January 1, 2002, completes the massage therapy
10 school's requirements or massage therapy program described
11 in subdivision (1).

12 SECTION 7. [EFFECTIVE JULY 1, 2001] (a) The Indiana state
13 board of massage therapy established by IC 25-21.8-2-1, as added
14 by this act, shall, not later than July 1, 2002:

15 (1) adopt a licensing examination; or

16 (2) approve an examination other than the National
17 Certification Exam for Therapeutic Massage and Bodywork
18 (NCETMB);

19 that an individual may use as the basis for complying with
20 IC 25-21.8-4-4(4), as added by this act.

21 (b) This SECTION expires December 31, 2002.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1721, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 24, delete "licensed under" and insert "**who practices**".

Page 4, line 25, delete "this article to practice".

Page 5, delete lines 14 through 18.

Page 6, delete lines 14 through 16.

Page 6, line 17, delete "(4)" and insert "**(3)**".

Page 6, line 19, delete "(5)" and insert "**(4)**".

Page 6, line 21, delete "(6)" and insert "**(5)**".

Page 6, line 23, delete "(7)" and insert "**(6)**".

Page 6, line 24, delete "(8)" and insert "**(7)**".

Page 6, line 27, delete "(9)" and insert "**(8)**".

Page 6, delete lines 28 through 31.

Page 6, line 32, delete "(13)" and insert "**(9)**".

Page 6, line 34, delete "(14)" and insert "**(10)**".

Page 6, line 35, delete "(15)" and insert "**(11)**".

Page 6, delete line 37.

Page 6, line 38, delete "(17)" and insert "**(12)**".

Page 6, line 40, delete "(18)" and insert "**(13)**".

Page 7, between lines 12 and 13, begin a new line single block indented and insert:

"(1) A health care professional acting within the scope of the health care professional's license, certification, or registration."

Page 7, line 13, delete "(1)" and insert "**(2)**".

Page 7, line 15, delete "(2)" and insert "**(3)**".

Page 7, line 23, delete "(3)" and insert "**(4)**".

Page 7, line 23, after "who" insert "**, while not holding the individual out as a massage therapist,**".

Page 7, line 32, delete "(4)" and insert "**(5)**".

Page 8, line 14, delete "shall" and insert "**may**".

Page 10, between lines 19 and 20, begin a new paragraph and insert:

"Chapter 7. Preemption of Local Ordinances and Regulations

Sec. 1. Except as provided in section 2 of this chapter, this article supercedes an ordinance or regulation adopted by a municipality or county of Indiana relating to the licensing or registration of massage therapists.

Sec. 2. This article does not effect local regulations relating to:



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**(1) zoning requirements; or
(2) occupational license fees;
adopted by a municipality or county pertaining to massage therapists."**

Page 10, after line 39, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE JULY 1, 2001] (a) The Indiana state board of massage therapy established by IC 25-21.8-2-1, as added by this act, shall, not later than July 1, 2002:

- (1) adopt a licensing examination; or**
- (2) approve an examination other than the National Certification Exam for Therapeutic Massage and Bodywork (NCETMB);**

that an individual may use as the basis for complying with IC 25-21.8-4-4(4), as added by this act.

(b) This SECTION expires December 31, 2002."

and when so amended that said bill do pass.

(Reference is to HB 1721 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 9, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1721 be amended to read as follows:

Page 4, delete lines 16 through 23, begin a new paragraph and insert:

"Sec. 4. (a) "Massage" or "massage therapy" means the treatment of the human body by the therapeutic application of massage techniques, including:

(1) the use of touch, pressure, movement, positioning, and holding with or without the use of massage devices that mimic or enhance manual measures; and

(2) the external application of heat, cold, water, lubricants, and abrasives.

(b) The term does not include joint manipulation or spinal adjustment."

Page 6, line 42, after "professional" insert **"who, while not professing to be a massage therapist, is"**.

Page 10, line 11, delete "7." and insert **"8."**

Page 10, between lines 40 and 41, begin a new paragraph and insert:

"(c) Notwithstanding IC 25-21.8-4-4 and IC 25-21.8-5-2, both as added by this act, the Indiana state board of massage therapy may issue a license to any applicant who:

(1) before March 1, 2001, enrolled in a massage therapy school or program that required five hundred (500) hours of study if the school was in good standing with any state, regional, or national agency of government charged with regulating massage therapy or programs; and

(2) before January 1, 2002, completes the massage therapy school's requirements or massage therapy program described in subdivision (1)."

(Reference is to HB 1721 as printed February 21, 2001.)

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